United Nations A/56/336

General Assembly

Distr.: General
7 September 2001

Original: English

Fifty-sixth session
Item 131 (c) of the provisional agenda*
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Situation of human rights in the Sudan

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the General Assembly the interim report of the Special Rapporteur of the Commission on Human Rights, Gerhart Baum, on the situation of human rights in the Sudan, pursuant to resolution 2001/18 of 20 April 2001 of the Commission on Human Rights and Economic and Social Council decision 2001/253 of 24 July 2001.

* A/56/150.

** In accordance with General Assembly resolution 55/222, part III, para. 10, the present report is being submitted on 7 September 2001 so as to include as much updated information as possible.

01-53058 (E) 021001

Interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan

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I. Introduction

1. Following the presentation of his report to the General Assembly at its fifty-fifth session (see A/55/374), Leonardo Franco resigned. By letter dated 28 December 2000, the Chairman of the fifty-sixth session of the Commission on Human Rights appointed Gerhart Baum (Germany) as the new Special Rapporteur on the situation of human rights in the Sudan.

2. Upon accepting his appointment, the Special Rapporteur proceeded to inform himself about the general situation in the Sudan and, in particular, on the situation of human rights and the humanitarian crisis in the country.

3. On 31 January and 1 October 2001, the Special Rapporteur undertook a mission to Geneva for consultations with the High Commissioner for Human Rights, the staff of the Office of the High Commissioner for Human Rights, specialized agencies, non-governmental organizations (NGOs) as well as with diplomatic missions and independent experts.

4. While in Geneva, the Special Rapporteur had a meeting with the Permanent Representative of the Republic of the Sudan on 31 January 2001 and stated his wish to visit the country at the earliest opportunity.

5. On 13 February 2001, the Permanent Mission of the Republic of the Sudan addressed a letter to the Special Rapporteur inviting him to visit the country, from 9 through 17 March, as suggested by the Special Rapporteur.

6. Accordingly, the Special Rapporteur travelled to Khartoum on 9 March and proceeded to Nairobi on 14 March, concluding his visit on 17 March.

7. The Special Rapporteur acknowledges the very good cooperation he received from the Government of the Sudan throughout his visit. Particular thanks go to the First Vice-President, Ali Osman Mohammed Taha, the ministers met and the Rapporteur of the Advisory Council for Human Rights, who was instrumental in organizing the programme, as well as to the Office of the Resident Coordinator in Khartoum, the United Nations Office for the Coordination of Humanitarian Affairs and Operation Lifeline Sudan (OLS).

8. The present report includes the findings of the mission as well as an updating on the overall situation based on information collected since then.

9. The Special Rapporteur will conduct his second visit to the Sudan during the first half of the month of October 2001, tentatively. His findings will be reflected in his oral presentation to the General Assembly and will be the basis of his next report to the Commission on Human Rights at its fifty-eighth session. The Special Rapporteur intends to visit the Sudan once again in February-March 2002 to update the Commission further on his findings.

II. Respect for human rights and humanitarian law in the conflict

A. The peace talks

10. Intergovernmental Authority for Development (IGAD)-led peace negotiations have failed so far to produce the expected results, owing to the stumbling block issues of the relation between religion and State and self-determination. Regional players have not yet succeeded in reconciling the parties on these two long-standing issues. Following the IGAD Partners Forum (IPF) in Rome in March, some scepticism was perceived regarding the chances of success of the initiative.

11. In its Statement by the Presidency of 11 April 2001 on behalf of the European Union on the IGAD peace process, the European Union, while supporting the IGAD peace initiative, expressed concern about the lack of progress made. It stressed that the active involvement of IGAD at a high political level is crucial in order to achieve substantial progress towards the end of the war, as is the firm political determination of both the Government of the Sudan and the Sudan People's Liberation Movement and Liberation Army (SPLM/A) to find a peaceful solution to the conflict.

12. On 2 June, the first IGAD-brokered peace summit between the Sudanese Government and SPLA since 1997 took place in Nairobi but registered little progress towards a ceasefire or direct negotiations between the parties, owing to a lack of agreement on core issues such as the determination of the boundaries of southern Sudan; State and religion; the kind of government to cover the interim; and the sharing of wealth, which is a particularly relevant issue in view of the current developments in the field of oil exploitation. All IGAD leaders, except the Eritrean President, attended the summit. Another summit scheduled for July, which

both President Omar el-Bashir and John Garang were expected to attend, did not take place.

13. In addition, an Arab African summit is scheduled to be held in September, sponsored by the Governments of Egypt and Libya The Special Rapporteur will report on any relevant developments in this respect.

14. At the regional level, Nigeria and South Africa manifested their wish to contribute actively to the IGAD peace process, including by creating an African version of IPF, which would be comprised of Egypt, Libya, Nigeria and South Africa.

15. On 3 May, the Nigerian Government sought to bring the Sudanese opposition Umma Party and SPLM/A closer to a common platform. The initiative, however, did not result in the resumption of cooperation between the northern and southern opposition movements, mostly owing to the unwillingness of the Sudan People's Liberation Movement and Liberation Army to consider peace initiatives other than IGAD and its refusal to accept the mediation of the Umma Party in this regard.

16. The Egyptian-Libyan initiative, an expanded version of the one first offered by Cairo and Tripoli two years ago, included the formation of a transitional Government that would hold a national conference aimed at adopting vital constitutional reforms and organize genuine general elections. The initiative emphasized the need for separating authorities, adopting constitutional reforms, respecting human rights and establishing a decentralized Government while preserving the unity of the Sudan and guaranteeing balanced and equitable development for the whole country. It pointed to the Sudanese Army as a national institution of all the Sudanese people, stressed the need for adopting a foreign policy that protects national interests and recognized party, religious and cultural diversities. However, in line with the previous version, the memorandum made no reference to the referendum on self-determination, which is foreseen in the IGAD initiative.

17. On 29 June, President Omar el-Bashir announced the creation of a national council to evaluate foreign peace initiatives to end the conflict and make relevant recommendations. On 4 July, the Government announced its formal acceptance of the Egyptian-Libyan initiative. Following acceptance by all counterparts of the nine-point memorandum, the Government of Egypt initiated plans to convene a conference to have more detailed discussions on the implementation of such a proposal.

18. It remains to be noted that despite broad acceptance of the nine-point plan, large differences continue to exist between the opposition and the Government, notably on the issue of religion and State and self-determination, on the one hand, and the creation of a transitional Government to replace the current one, on the other. In addition, the Southern Sudan Liberation Movement (SSLM) strongly criticized the initiative in the name of self-determination, reiterating its support to the IGAD-sponsored peace process.

19. The Special Rapporteur was pleased to learn of the latest developments in the people-to-people peace process at the grass-roots level, particularly the Nuer conference, held in Kisumu, Kenya, from 16 to 22 June 2001, leading to the Kisumu Declaration for Nuer Unity and Peace, dated 23 June 2001, whereby 72 Nuer traditional leaders, women and youth representatives, church leaders and representatives of the Sudan Popular Defence Forces and SSLM declared their wish to create unified leadership structures for the whole Nuerland, the area inhabited by the Nuer tribe in western Upper Nile. Considering the deteriorating humanitarian situation in the oil-rich state and the rate of displacement deriving from the fighting around the oilfields, such an initiative is most encouraging. The Special Rapporteur will therefore follow it closely, particularly in view of the holding of the New Sudan Council of Churches-sponsored Nuer Peace Conference.

B. Intensification of military activities

20. During his mission, the Special Rapporteur held numerous consultations with government officials, national and international organizations, SPLM/A and individual experts. He received well-documented information, often from first-hand sources, pointing to the perpetration by all parties to the conflict of numerous serious violations of human rights and international humanitarian law, of which innocent civilians continue to be the principal target. More specifically, indiscriminate bombing of civilians, particularly in the Nuba Mountains and in Blue Nile State, has continued to occur, thus severely hampering access to humanitarian aid.

21. More specifically, on 16 April, a plane carrying relief for the Nuba Mountains was bombed at Kawda airstrip. Reportedly, a total of about 14 bombs were dropped in three attacks, killing one person and injuring two. The first attack took place when hundreds of civilians had gathered at the airstrip around a humanitarian relief plane on the ground.

22. The Special Rapporteur, in his previous reports to the Commission on Human Rights and the General Assembly, had repeatedly condemned the heinous practice of bombing civilians as they gather for food distribution and reiterates his serious concern in this regard.

23. On 17 April, bombs fell near a school in Chauri (southern Kordufan), wounding one child.

24. On 22 April, 16 bombs were reportedly dropped in and around Narus, eastern Equatoria. Two landed in the Narus marketplace and another two hit the church school, destroying the buildings nearby, including a school. According to the sources, one child was evacuated to a Kenyan hospital in critical condition, where he eventually died, and four to seven people were injured.

25. Following an attack in early May which resulted in the death of one of its pilots, the International Committee of the Red Cross (ICRC) decided to suspend all its flights to southern Sudan. The aircraft was hit between Lokichoggio, in north-western Kenya, and Juba in western Equatoria, over the Didinga Hills, in southern Sudan.

26. Overall, during the month of May, 13 bomb attacks were reported in Equatoria, southern Blue Nile, southern Kordofan and Upper Nile. In three separate instances, bombs were reportedly dropped near an NGO compound in Akuem and a dispensary in Tonj, and caused damages to a health centre in Acumcum, all in Bahr al-Ghazal.

27. The second half of May was described as recording the biggest government offensive in the Nuba Mountains since 1992. Allegedly, more than 7,500 government and allied militia troops launched an offensive on 17 May, closing all the airstrips that had been used to bring food and medical supplies into the area. Soldiers reportedly destroyed almost 2,500 homes and systematically burned food stores. It was reported that thousands of Nuba were forced to flee to avoid being taken into government "peace villages".

28. On 24 May, the Government of the Sudan announced that it would halt all air attacks in the country's south and in the Nuba Mountains with effect from 25 May. However, on 25 May, the Sudanese Catholic Information Office reported that 14 bombs had been dropped in Tonj in two attacks. On 26 May, eight bombs were dropped on the Limon Hills, west of Kawda.

29. On 29 May, SPLM/A claimed capture of the garrison town of Daym Zubayr in western Bahr al-Ghazal. On 2 June, it announced the capture of Raga, also in Bahr al-Ghazal, 1,050 kilometres south-west of Khartoum.[1] The SPLA offensive coincided with a resumption of government bombings on 2 June. As a result, a hospital was hit in Raga and some patients were injured.

30. On the morning of 3 June, a Russian Antonov bomber reportedly dropped six to eight bombs on the town, hitting a secondary school run by the Combonians. A day later, another Antonov bomber hit the city, apparently aiming for the bridge on Raga River. Two days later, on the morning of June 6, three more bombs were reportedly dropped, in Bararud, Bahr al-Ghazal, while an Operation Lifeline Sudan C-130 aircraft was about carrying out food drops. The aeroplane was almost hit and the food drop aborted as a result. Unconfirmed reports spoke of two women dead and one man injured.

31. On 7 June, a plane with its lights off reportedly bombed a heavily populated part of Raga near the airstrip, killing at least four civilians, including the wife and child of a church community leader. Several others were injured, including children.

32. It was estimated that such military activities by both sides in western Bahr al-Ghazal have displaced at least 30,000 people. In mid-June, some estimations referred to around 50,000 people in desperate need of humanitarian assistance. Internally displaced persons headed northwards to drought-hit neighbouring Darfur, one group in the direction of Al-Daein, some 350 km from Raga, and the other north-north-west towards Nyala, about 400 km away. Over 10,000 of them concentrated around the village of Timsahah, 144 km north of Raga, where the resident population was just a few thousand persons in normal times. In addition, humanitarian aid came to a halt, since locations from Tonj northwards were declared no-go areas, forcing both church and humanitarian agencies to suspend their

flights to the region. The combination of the above-mentioned factors led to a further deterioration of the living conditions of the internally displaced persons.

33. On 8 June, World Food Programme officials confirmed that on 6 June, an Antonov bomber attack on Barurud in north-western Bahr al-Ghazal had narrowly missed one of its aircraft about to make an emergency humanitarian food drop.

34. On 9 June, SPLM/A captured the town of Boro, near the border separating Darfur from the Central African Republic.

35. On 11 June, the Sudanese Government officially announced its intention to resume air strikes in southern Sudan and in the Nuba Mountains, in spite of the breaches that had occurred since the declaration of the moratorium in May.

36. In mid-June, the United Nations concluded its two-phase evacuation process, thus leaving the government garrison town of Wau in Bahr al-Ghazal, owing to an expected advance on the town by SPLA. United Nations staff were redeployed to Al-Daein to provide assistance to internally displaced persons who had moved there until 7 July, when they returned to Wau.

37. On 23 June, an NGO clinic was bombed in Mundari-Bura, Equatoria, killing one person and injuring two. At the time of the attack, food distribution was taking place. On the next day, six persons were killed during an afternoon attack on Raga, including a mother and a baby, and several were injured. Bombs reportedly fell in a straight line across a strictly civilian area of the town.

38. On 27 June, in a further bombing attack on Raga, six persons, including a mother and two of her children, were reportedly killed and several wounded when a plane dropped between seven and nine bombs.

39. On 6 July, Secretary-General Kofi Annan expressed deep concern about the plight of civilians following the military offensive in Bahr al-Ghazal and called upon the warring parties to seek a peaceful settlement.

40. A number of incidents took place towards the end of July in Equatoria. More specifically, on 22 July, an attack on the Ngaluma displaced persons camp resulted in one civilian dead and two injured. On the same day, !kotos was bombed and three civilians were reportedly killed. Also, six more bombs were reportedly dropped in Magwi. As a result, three children and one woman were killed and three civilians were injured. On 24 July, a total of eight bombs were reportedly dropped in Parajok. Two of them fell in an Operation Lifeline Sudan NGO compound, destroying a building and a storage container and injuring one civilian.

41. The Special Rapporteur also received information on serious disregard for international humanitarian and human rights law by SPLM/A, according to which it continued to loot food (including relief provisions) from the population, sometimes with civilian casualties, recruit child soldiers and commit rape. In addition, the Special Rapporteur was informed that SPLM/A is allegedly responsible for burning down villages in oil-rich western Upper Nile.

42. The Special Rapporteur reflected information received in Nairobi in this respect in the relevant section of the present report dealing with SPLM/A (see paras. 57-71 below).

C. The oil issue: the situation in western Upper Nile

43. The Special Rapporteur met with representatives of the Swedish Lundin Oil Company, who provided him with first-hand information on their activities in the region, informed him of steps taken to address their corporate responsibilities and invited him to visit its oil installations in block 5A.

44. The Special Rapporteur also met with representatives of the Canadian Talisman Company and took note of the company's stand whereby at the time when oil extraction began, perspectives seemed to be more encouraging.

45. The Special Rapporteur repeatedly discussed the issue of oil exploitation with representatives of the Sudanese Government both in Geneva and during his mission to Khartoum, including allegations regarding the forced displacement of the Nuer population, with a view to gaining control of the oil zone.

46. In his oral statement to the Commission on Human Rights at its fifty-seventh session, the Special Rapporteur reflected the Government's stand on this issue, whereby people forced to move away from their settlements would be adequately compensated.

47. In this connection, the Special Rapporteur noted that the Government rejected all accusations that oil revenues would be used to fuel the war and claimed that they were instead invested for the development of the south. So far, the Government has not provided sufficient evidence supporting this claim. Nonetheless, the Special Rapporteur remains interested in receiving evidence on how oil revenues are spent and will investigate this matter further during his next visit.

48. The Special Rapporteur stated his intention to visit the oil area during his next mission, which has been tentatively scheduled for the first half of October. The Government of the Sudan extended an invitation to him in this respect.

D. The issue of abduction of women and children

49. The Special Rapporteur was extensively briefed on the nature and work of the Committee for the Eradication of Abduction of Women and Children (CEAWC).

50. While in Khartoum, he had discussions with the Rapporteur of the Advisory Council for Human Rights and Chairman of CEAWC and with the Chairman of the CEAWC Dinka Committee, the United Nations Children's Fund (UNICEF) and the Save the Children Fund-UK on the issue of abductions.

51. While he welcomes the creation of such a body, he noticed that the progress recorded has been quite slow. Between May 1999 — when it was created, following a resolution by the Commission on Human Rights — and mid-2000, CEAWC identified 1,230 cases of abductions in southern Darfur and western Kordofan. However, by the beginning of mid-2001, CEAWC had only facilitated the return of approximately 550 abductees to their homes out of the total number waiting to be released, which is generally considered to be between 5,000 as a minimum, although figures differ significantly, some reports referring to much higher ones. This is partly explained by the resumption of fighting, which put an end to the safe corridor between government-controlled Aweil to SPLM/A-controlled Bahr al-Ghazal.

52. The Special Rapporteur is particularly concerned about the negative role of the nomadic Arab tribes, the so-called Murahaleen, from which militias are formed, who are armed, funded and militarily deployed by the Sudanese army, especially in Bahr al-Ghazal and western Kordufan. Information received seems to confirm that the Murahaleen do not only target rebel camps or armed individuals, but also civilians, in a very intensive manner. Usually, food crops are destroyed, men are killed and women and children are abducted.

53. The Special Rapporteur will continue to give priority to monitoring the role of the Murahaleen and the Government's action to address this issue.

54. Moreover, the Special Rapporteur received information whereby Dinka representatives continue to face difficulties in the discharge of their tasks. At the grass-roots level, local officials very often do not offer any assistance to CEAWC representatives on the ground. Baggara tribes, usually held responsible for abductions, continue flatly to deny the mere existence of the phenomenon.

55. In addition, the Government, while distancing itself from the practice, has not yet taken concrete measures to prevent new abductions and its inaction has the effect of encouraging the recurrence of the phenomenon. Reliable sources in Khartoum confirmed that in early January 2001, Government-supported militia again carried out raids in northern Bahr al-Ghazal, abducting 122 women and children.

56. During his mission, the Special Rapporteur met with First Vice-President Taha and raised this issue with him, encouraging him to take positive steps to address the situation. The First Vice-President expressed his personal commitment to this cause and promised to take a public stand to this end, although so far there has been no public announcement in this sense. Recently, however, the First Vice-President pledged 10 million Sudanese dinars (roughly $40,000) to cover local requirements for forthcoming CEAWC activities.

E. SPLM/A

57. While in Nairobi, the Special Rapporteur collected information on the situation of human rights in the SPLM/A-held territories. Credible sources reported that, although some basic institutions have gradually been established, they remain extremely weak and there is no serious policy aiming at developing the civil society. The Special Rapporteur was informed that some judiciary structures had been

put in place, including military and civil courts at the regional and county levels. Provisions have been made whereby an accused person would always be provided with legal and paralegal aid. However, he was also informed that only officials at the junior level have been taken to court and punished, while senior officials often enjoy impunity.

58. The Special Rapporteur was also informed that there are no public media within southern Sudan or any organized opposition. In fact, it appeared that nobody is allowed to organize political activities not in line with SPLM/A, for security reasons.

59. As for the use of child soldiers in the conflict, the Special Rapporteur was briefed about the demobilization programme conducted by UNICEF. He was informed that there are some 9,000 child soldiers still bearing arms in southern Sudan within the different rebel groups. As many as 3,500 children have been demobilized since the beginning of the programme, although 8.5 per cent of them fall within the category of unaccompanied minors rather than child soldiers as such. SPLM/A declared itself profoundly committed to the demobilization. UNICEF expressed satisfaction at the cooperative attitude of SPLM/A.

60. However, the Special Rapporteur received information that forced recruitment has allegedly continued together with the recurrence of cases of rape, particularly in Mundri and Chukudum, eastern Equatoria.

61. As for allegations regarding landmines, the SPLM/A representatives rejected them as groundless and assured the Special Rapporteur that the use of landmines has been banned and that landmines are not removed but exploded instead. However, the Special Rapporteur has received information confirming that both parties to the conflict have resorted to the use of landmines. In this connection, he noted that the Sudan has signed, but not yet ratified, the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction.

62. The SPLM/A representatives also denied allegations referring to the use of civilian installations for military purposes and declared that there are no civilian installations close to the military area.

63. Sources also pointed out that among most of SPLM/A leaders there is no serious commitment to peace and that SPLM/A, far from being a genuine liberation movement for the southern tribes, only represents the Bor Ḍinka and has imposed its presence in the south thanks to the support of external actors. In addition, misuse of the religious factor by SPLM/A has reportedly resulted in the misleading superposition of Christianity and the Movement, which is often seen as representing Christianity vis-à-vis the Muslim north.

64. During his mission, the Special Rapporteur met with representatives of SPLM/A in Nairobi and raised a number of issues with them. He will continue to monitor any new developments in his next visit and remains keen to receive any evidence of what was stated by the SPLM/A representatives.

65. Concerning the human rights situation in the SPLM/A territories, the representatives of the Movement informed the Special Rapporteur that a civil society is being built up which is responsible for the provision of basic services such as health and education. In addition, a civil administration has reportedly been established and the judiciary is independent. SPLM/A representatives stated that no human rights violations occur, nor are there any political detainees, only prisoners of war to whom ICRC has access.

66. Political dialogue with other liberation movements within southern Sudan is reportedly allowed. However, the SPLM/A representatives specified that, although different views can be expressed, the creation of proper political parties in the context of war would not be advisable since there cannot be a multiparty system in times of war.

67. The SPLM/A representatives briefed the Special Rapporteur on the role and structure of the National Liberation Council, whereby each delegate is the representative of one of the five regions in southern Sudan.

68. The National Liberation Council reportedly includes no militia but only regular SPLM/A army. Political forces represented include SPLA, SPLM, youth, women from every county (who enjoy special seats), farmers and representatives of SPLM abroad, totalling 188 delegates. They are not represented on the basis of ethnicity.

69. Such delegates are designated and elections only take place at the local level, for the time being. However, the Special Rapporteur was informed that elections would take place before June 2001 and that a National Congress would be held every five years.

70. The Special Rapporteur has not received any follow-up information and would appreciate receiving any further information in this regard to be reflected in his next report to the Commission on Human Rights.

71. The Special Rapporteur inquired about the situation in eastern Equatoria, which had been the object of close scrutiny in the report of a former Special Rapporteur to the General Assembly at its fifty-fifth session. The SPLM/A representatives informed him that the situation had improved. More specifically, they reported that a reconciliation workshop had been foreseen in Chukudum for 8 through 11 April. The Special Rapporteur would appreciate receiving any further details about the outcome of such an initiative.

III. Constitution and transition to democracy

72. While the adoption of a new law on political parties in 1999 had raised some expectations of a more dynamic political interaction, the latest information received seems to indicate that political freedom has actually been restricted.

73. The Special Rapporteur took note with concern of the fact that the state of emergency has been renewed until the end of the year, thus continuing to give the President the power to overrule any law by presidential decree, hence weakening the role of the Parliament.

74. The strengthened role of the security forces and the question of their impunity were very often referred to by the Special Rapporteur in the course of his discussions with government officials.

75. The Special Rapporteur finds it alarming that security forces continued a campaign of harassment, intimidation and persecution, targeting political opponents such as representatives of the Popular National Congress (PNC) and human rights defenders, particularly members of the Sudanese Victims of Torture Group, by means of arbitrary arrests, followed by their detention incommunicado and protracted arbitrary detention without judicial review. Security organs have continued to resort to the practice of reporting, whereby an individual is forced to report to the police on a regular basis. This constitutes an obvious form of harassment which totally disrupts the daily life of the individual concerned.

76. During his visit, the Special Rapporteur expressed most serious concerns vis-à-vis the new amendment to the National Security Forces Act, established by presidential decree, which further extended detention without judicial review to an overall period of six months.

77. In his discussions with the State Minister of Justice, the Special Rapporteur was informed that such an amendment was just a provisional order which had resulted from a specific incident, that the Parliament, once in place, would have to ratify it and that it could be taken up to the Constitutional Court at any time.

78. The Special Rapporteur was informed that on 20 June 2001 the Parliament approved an amendment to the National Security Forces Act, endorsed by the President on 4 July 2001, which allows security forces to arrest and detain individuals for a period of several months without judicial review, depending on the crime. Human rights organizations lamented that such an amendment further restricts the rights of the detainee, in comparison with the previous text.

79. The Special Rapporteur will examine the new text and its impact following its implementation and will reflect his views in his next report to the Commission on Human Rights.

80. The Sudanese media scene is characterized by an impressive number of daily newspapers. Political views are to some extent reflected publicly. The Special Rapporteur, however, has received an increasing number of reports pointing to restrictions on the freedom of the press. In addition, censorship has reportedly increased since December 2000.

81. In this connection, the Special Rapporteur received information whereby all press articles are subject to preliminary censorship by the security organs. Reports on human rights issues, on the views of the political opposition as well as any criticism of State organs are said to be especially targeted. In addition, the Special Rapporteur was informed that journalists are threatened with imprisonment, their freedom of movement is restricted and they are instructed on how to reflect information.

82. Restrictions on freedom of assembly and association have also increased. Gatherings involving more than five individuals require prior approval. If such approval is not obtained, the crime of breach of the public peace may have been committed (Criminal Procedure Act, section 66).

83. The establishment of political organizations or associations requires State permission. Unregistered associations face government sanctions such as the imprisonment of their members and the confiscation of their property.

84. All trade unions are subject to government control. Elections of leaders of trade unions and professional associations are organized and controlled by government organs. Controls over national NGOs have reportedly been tightened, particularly those focusing on human rights.

85. Representatives of Christian churches in Khartoum and Nairobi and in other countries voiced their concern about discrimination, harassment and restrictions on freedom of religion to which they are subject. Recently, the Government has seemed somewhat more willing to discuss issues of freedom of religion. However, the Special Rapporteur remains concerned about the increasing religious characterization of educational institutions and public life in general. Since the church interlocutors almost unanimously share the general opinion that the war has no religious motivation, their complaints should be taken particularly seriously.

86. In this connection, the Special Rapporteur was repeatedly referred to the opinion of the Comboni missionaries of 19 January 2001 that religion is distorted and misused as a means for other interests. The Special Rapporteur will pay particular attention to the above-mentioned complaints during his next visit.

IV. Other reported violations of human rights

Individual cases

87. The Special Rapporteur continued to receive individual cases of human rights violations and expressed his concern in this respect.

88. During a wrap-up session with the Rapporteur of the Advisory Council for Human Rights in Khartoum, the Special Rapporteur handed out a list of selected cases for the Government's follow-up action. The Special Rapporteur welcomed the fact that some of the cases, such as that of Nagib Nageem al-Din, could be at least partially solved with the help of the Government.

89. Since his visit, the Special Rapporteur has continued to receive information relating to individual cases of human rights abuses. In the present report he wishes to refer to the following selected cases:

(a) On 12 June, Hassan Omar Abul Reish, aged 27, PNC Officer for General Education in the province of Kosti, White Nile state, passed away at the Central Police Saihiroun Specialized Hospital owing to complications from wounds sustained while detained. Sources informed the Special Rapporteur that he was arrested together with his brother by security agents on 16 March 2001 from his home in Block 29, Kosti. Allegedly, both of them were initially beaten up in front of their family, then taken to the state security offices in Kosti where they continued to be mistreated. It was reported that in view of the deterioration of Abul Reish's health conditions, the security officers tried to return him home, where his family refused to receive him in such a state. He was taken to Kosti Hospital the next day, where it became apparent that he was bleeding internally. On 18 March, an emergency operation revealed that his spleen had ruptured, and it was therefore removed. Nonetheless, Abul Reish never recovered. In fact, his health deteriorated further due to the large loss of blood and the poor medical facilities in Kosti. The development of jaundice and liver failure provoked a fatal coma;

(b) Two Gezira University students were reportedly shot dead and 16 others injured during a political debate that was disrupted by militant students, policemen and security officers on Thursday, 16 August 2001, in Gezira. Reportedly, non-Gezira University National Congress student militants wearing military uniforms and chanting Islamic Jihad slogans marched onto the campus and interrupted a political debate, which included several political opposition student groups, held by the Gezira University opposition Arab Nassrist Socialist Party student group. Members of the police and security officers allegedly joined forces with the NC militants as the students that were engaged in the political debate attempted to fend off the militants' assault. A police car reportedly ran over one student, Jihan Atif. Gunfire erupted against

the angered students, leading to the deaths of two of them — Hamad Altayeb and Mutasim Mohamed el Hassan — and injuring a further 16, in some cases critically. The two men who were fatally wounded were reportedly shot in the head and chest and died instantly. Another student, Al Nazeer Ahmed Abdullah, was taken unconscious to hospital, where his kidney and spleen had to be removed as a result of his injuries. The other injured students include: Hafiz Osman; Mohamed El Tayeb; Imad Abdel Raheem; Ali Abdel Kareem; Salah Gasmelsaid; Farouq Abdel Raziq; Murtadah Ali Mahmoud; Nargis Sid Ahmed; Leemya Abdellah; Nidal Abdel Aziz and Zubeyda Abdel Raheem. Two militant NC students from a university in Khartoum — Hashim Abdel Raheem and Hoseyfa Ali Aklheir — were also reportedly injured;

(c) Hassan al-Turabi and other senior members of his party were arrested on 21 February after PNC signed a memorandum of understanding with SPLM. On 2 May, Khartoum Criminal Court Judge Mu'tasim Taj el-Sirr, based on a request received by the State prosecutor, ordered a two-week extension of al-Turabi's detention and that of three of his colleagues on the grounds that the detainees' interrogation had not yet been completed. On 15 May, Khartoum North Court turned down the prosecution request since it was not convinced by prosecution arguments that it needed more time to interrogate al-Turabi, particularly since he had not been interrogated since March, and set a trial date for 27 May. On 29 May, al-Turabi was moved from prison, where he had been held in solitary confinement, and placed under house arrest in a government "guesthouse", in Kafuri suburb, north Khartoum;

(d) On 7 April, Muhammad al-Hasan al-Amin, Secretary for Legal Affairs of PNC, was released from detention, after charges against him were reduced;

(e) On 5 June, at 2.30 p.m., Mustafa Abdel Gadir, 61, the principal defence lawyer for the National Democratic Alliance (NDA) members (see below), was arrested from his office in Khartoum by security officers who confiscated documents, some of which belonged to his clients. Family and colleagues were prevented from knowing his whereabouts. He was released at 8.30 p.m. the same evening without valid charges. He was ordered to report to the Political Section of the security offices in Khartoum on Wednesday, 6 June, and Saturday, 10 June. On both occasions he was held for over four hours and interrogated. The trial for the NDA members was scheduled to begin on Monday, 11 June and Thursday, 14 June 2001;

(f) Between 10 and 11 May 2001 security forces re-arrested five members of the NDA political leadership secretariat from their homes in Khartoum and took them to local police stations. Those arrested included: Ali al-Sayyid, Democratic Unionist Party, Mohammed Mahjoub, Sudanese Communist Party, Joseph Ukello, Union of Sudanese African Parties, Mohammed Wida Ala, NDA, and Mohammed Suleiman, Trade Union Alliance. The men had already been arrested on 6 December 2000, following a meeting with an American diplomat in Khartoum, on the grounds that they were plotting against the Government, disrupting national security and supporting the rebel movement with American logistical support. They had been released on bail in late April, following an appeal by their lawyers to the Court of Appeals. However, the Government appealed against this decision to the Supreme Court, which took the decision to re-arrest them on 10 May. While in Khartoum, the Special Rapporteur obtained permission to visit them in Kober Prison, where he learned that they had been detained for 97 days (75 of which were in solitary confinement) and could see a lawyer only after 75 days;

(g) The Special Rapporteur was informed that 41-year-old Faisal el Bagir Mohamed, a member of the Sudan Victims of Torture Group network inside the Sudan and a freelance journalist, was arrested on 13 June 2001 at 6 p.m. from his house in Khartoum. Security officers reportedly searched his house for hours in front of his wife and child. His personal computer, printer, fax machine and all the documents in his house were confiscated. He was released at midnight and ordered to report again on Thursday, 14 June, at 10 a.m. to the security offices in Khartoum. When he returned on Thursday, he was again arrested. Sources believed that his arrest might have been linked to his involvement in the possible organization of a rally to commemorate the United Nations International Day in Support of Victims of Torture, on 26 June. He was released on 26 June without ever being charged. His equipment was not returned to him;

(h) On 12 April, Alfred Taban, publisher of the daily newspaper, The Khartoum Monitor, and the British Broadcasting Corporation correspondent in the Sudan, was arrested and held at army headquarters

under emergency laws. Mr. Taban had allegedly been arrested five times since the beginning of the year. This time, he was arrested as he tried to attend a press conference given by church leaders in downtown Khartoum, following the cancellation by the police of an Easter ceremony on 11 April;

(i) A group of young Christians were arrested and others injured on 11 April in clashes between police and protesting Christians in Khartoum. The Christians, most of them from southern Sudan, had thrown stones at passing cars to protest against a government order to transfer Easter services from central Khartoum to the suburbs. On 12 April, fifty-two Christian men were each sentenced to 15 lashes and 20 days in prison, while four young women and two 12-year-old boys were each given 15 lashes only. It was reported that Sudanese security forces stormed All Saints Cathedral using tear gas and firearms. Several people were injured;

(j) On Saturday, 23 June 2001, the Sudanese authorities reportedly raided a workshop on democracy and gender issues organized by the Gender Centre in Khartoum. All participants in the workshop were interrogated about their political affiliations, their addresses were taken and they were subsequently arrested. Their names were reported as follows: Mahasin Abdel Al, NDA; Neimat Koko, Gender Centre, Omaima Al Mardi, Gender Centre, and Atta Al Battahani, Department of Politics, University of Khartoum. This is reportedly the second time that a workshop held by the Gender Centre has been raided by security forces. The women were released the same day following interrogation.

V. Conclusions and recommendations

A. Respect for human rights and humanitarian law in the conflict

90. Since 1998, the Sudanese Government had been making serious efforts to democratize the country and improve the human rights situation. Evidence of this includes the adoption of a new Constitution and the establishment of a Constitutional Court. The Sudan thus started along a path which could only be considered positive, especially in comparison with other States, including those in the region.

91. At the end of 2000, this path was discontinued and there was a setback, with some security laws being tightened and the security police increasing their activities. Even taking the war into account, this state of affairs cannot be justified.

92. The human rights situation in the Sudan has worsened further during the past months, as is manifested in the renewal of the state of emergency until the end of 2001 by the National Assembly, the provisions of the Security Act as endorsed by the Parliament and the tightening of censorship of the press and the reduced room for political activities by opposition parties.

93. In recent months, there have again been arrests of supporters of opposition groupings and of human rights activists. The trial against leading NDA members is being dragged on; the press has recently been subject to comprehensive censorship once again, after the State had seemed to be relaxing controls.

94. An increase in military activities can also be observed. The Sudanese air force has continued to hit civilian targets in spite of government announcements to the contrary. SPLM/A has, for its part, clearly stepped up its military activities with significant consequences for the civilian population. There are reports of heavy fighting, which is producing large movements of civilians in the Nuba Mountains, Bahr al-Ghazal and Unity state near the oilfields. Abductions of women and children by Murahaleen and other militias along the railway line from Aweil to Wau have increased again. The Government is doing too little to stop this practice. CEAWC needs greater government support.

95. The Special Rapporteur is aware that numerous human rights violations in the Sudan are linked to the war. The people who suffer most are the civilian population. That is why all possible efforts must be made to bring about a peaceful solution between the warring parties, if necessary with outside assistance.

96. In view of the circumstances, the United States, in cooperation with the European Union, IGAD and IPF States, as well as with the involvement of those countries in which oil companies operating in the Sudan are registered, should increase their engagement in the search for a peaceful solution. The conflict in the Sudan threatens to become a "forgotten war" in the eyes of the international community which the world has grown accustomed to. The truth is that the many

years of war in the Sudan have claimed more civilian victims than have other conflicts which have the attention of the world.

97. The Special Rapporteur denounces the constant disregard by both parties to the conflict of their own commitments and lack of observance of human rights principles and humanitarian law.

98. He stresses the appalling conditions of the civilian population, which continues to be at the receiving end of violations committed in the framework of the war.

99. The Special Rapporteur was particularly struck by the plight of the internally displaced persons, of which the most in the world are in the Sudan. He intends to devote more attention to this issue and will envisage the visit of some internally displaced persons camps on the occasion of his next mission to the country. While responsibility for the protection of such persons rests first and foremost with the national Governments concerned, the Special Rapporteur calls upon the international community to see how best it can contribute to this end, in line with the Guiding Principles on Internal Displacement issued by the Special Representative of the Secretary-General on internally displaced persons.

100. In view of the foregoing, the Special Rapporteur aligns himself with the European Union in its call on both the Government of the Sudan and SPLM/A to engage themselves in a continuous and sustained negotiation towards a just and lasting political settlement of the conflict in the Sudan and in its view that it is essential that a comprehensive ceasefire effectively monitored by observers accepted by both sides be promoted as a matter of urgency within the context of the ongoing IGAD negotiating process.

B. Economic, social and cultural rights

101. On the basis of the Vienna Declaration and Programme of Action (see A/CONF.157/23), adopted in 1993 at the World Conference on Human Rights, in which economic, social and cultural rights were recognized as an integral component of human rights, the Special Rapporteur recommends that everything should be done to improve the social and economic situation of the population. According to reliable sources, oil revenue is insufficiently used to this end throughout the country, but particularly in the south. In the field of education in particular there are great shortcomings to be made good. Large sections of the population in the north and south have no educational opportunities; a large percentage are illiterate.

102. In the globalized world of the twenty-first century, all of Africa is in danger of disconnecting from the rest of the world. Responsibility must be borne by the countries of Africa themselves, which have to stabilize the situation within their borders, and by the developed countries with their trade and debt policies.

103. The Special Rapporteur encourages the Sudanese Government, in the run-up to the next Group of 8 Summit in Canada, to create the conditions required to enable the Sudan to participate in the Millennium Programme.

104. The Sudanese Government should also meet the requirements for readmission to international development aid. Respect for human rights, progress on the road to democracy, good governance and practical steps to bring about a peaceful settlement to the conflict are also crucial requirements to this end.

C. The oil issue

105. While reserving the right to make a detailed assessment of the situation following his visit to the area, the Special Rapporteur noted that relevant sources agree that exploitation of the oil reserves has led to a worsening of the conflict, which has also turned into a war for oil.

106. In spite of the infrastructures provided by the oil companies to the local population in oil-rich areas, oil exploitation has continued to have a negative impact on the human rights situation.

107. The Special Rapporteur considers therefore that, no matter what oil companies do in terms of providing such social services as hospitals, schools and roads in the area where they operate, their doing business in a war-torn country characterized by frequent humanitarian crises, mainly although not only related to the fighting in Upper Nile, featuring looting and destruction of crops and villages and generating displacement, will continue to face international criticism until military warfare ends.

108. The Special Rapporteur, while recognizing that oil exploitation has become increasingly important for

the economic development of the country, strongly believes that the right to development cannot justify the disregard of other human rights.

D. Abductions

109. While recognizing that some positive steps have been taken with regard to abductions, the Special Rapporteur is of the opinion that there continues to be a need for a massive advocacy campaign. More specifically, the Special Rapporteur encourages the Government of the Sudan to take a public stand against abductions and in support of CEAWC, in line with the commitment expressed by a number of government officials, including the First Vice-President, during consultations held in the framework of the mission.

110. It is a positive step that the Government has acknowledged the existence of this heinous practice. However, this is not enough. Above all, the Government needs to exercise all its influence on the Murahaleen who are responsible for human rights abuses such as mass killings, torture, rape and abductions. The Government of the Sudan shares responsibility, because the Sudanese army tolerates these human rights abuses, integrates the Murahaleen in its military actions and in part finances, equips and deploys them.

111. The Special Rapporteur believes that a clear and unambiguous policy on abductions would first of all avoid the recurrence of cases of abductions and allow CEAWC to be more effective, particularly at the grass-roots level, thus facilitating the acceleration of the process of retrieval of abductees and their reunification with their families. In this connection, the Special Rapporteur appeals to the Government and SPLM/A to establish and maintain a safe corridor to allow for such reunifications.

112. Finally, the Special Rapporteur believes that perpetrators of abductions should be brought to justice, thus ending the impunity from which they have benefited so far.

E. Constitution and transition to democracy

113. The Special Rapporteur deplores the recurrence of cases of human rights violations and lack of official action to investigate and sanction such abuses.

114. He believes that all measures, be they legislative or administrative, that have been decided on in the last months, which are aimed at strengthening the role of the security apparatus, are worrisome and legitimize its impunity. The Special Rapporteur stresses the need to bring the security police under the rule of law, that relevant legislation therefore be revised and that impunity be fought in the most determined manner.

115. He encourages the Government to take positive steps in the direction of a real transition to democracy, including primarily the repealing of the state of emergency, for which there is no plausible justification.

116. The Government of the Sudan should insist that the terms of the Constitution are respected and obeyed. The Constitutional Court has an important role to play in this respect.

117. The Special Rapporteur urges SPLM/A to stop abusing human rights and prevent such abuses from occurring. SPLM/A is requested to allow and develop genuine democratic structures. Internal structures seem to be military-based rather than genuinely grounded in civil society, which is a crucial condition for the implementation of the right to self-determination.

118. The Special Rapporteur also encourages the Government of the Sudan to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was signed in 1986, and to accede to the Convention on the Elimination of All Forms of Discrimination against Women, in line with the commitment which government officials expressed in this respect.

119. The Special Rapporteur encouraged the Government to consider the establishment of an independent national commission on human rights, an institution that exists in many other countries. The Special Rapporteur believes there are a number of bodies and institutions that are genuinely involved in the promotion and protection of human rights, whose work should be supported. In this connection, he was impressed by the role of the Advisory Council for Human Rights and believes it should be strengthened in

order to be able to have an impact on the situation of human rights in the country.

120. The Special Rapporteur noted the ongoing discussions regarding the programme of technical assistance provided by the Office of the High Commissioner for Human Rights and will follow any new developments in this field.

121. In this connection, he encourages the international community at large, including donors and NGOs, actively to support the Office of the High Commissioner for Human Rights and the Government of the Sudan in their endeavour.

122. Even if the human rights situation has worsened in the past months and the armed conflict has intensified, the Special Rapporteur feels encouraged by the many interlocutors, within and outside the Government, in the north as well as in the south, who are seriously interested in the process of democratization and in ending the war.

123. The Sudan has a huge potential for development. The key for its future prosperity is, however, an end to the war and a lasting peace.

Notes

[1] No figures are available as for SPLM/A troops.

Annex

A. Principal international and regional human rights instruments ratified by the Government of the Sudan

- International Covenant on Economic, Social and Cultural Rights (18 March 1986)[a]
- International Covenant on Civil and Political Rights (18 March 1976)[a]
- International Convention on the Elimination of All Forms of Racial Discrimination (21 March 1977)[a]
- Convention on the Rights of the Child (3 August 1990)
- Convention relating to the Status of Refugees (ratified by the Sudan on 22 February 1974)
- International Convention on the Suppression and Punishment of the Crime of Apartheid (ratified by the Sudan on 21 March 1977)
- International Convention against Apartheid in Sports (ratified by the Sudan on 23 February 1990)
- Slavery Convention
- Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (ratified by the Sudan on 9 September 1957)
- African Charter on Human and Peoples' Rights (adopted by the Organization of African Unity on 27 June 1981; entry into force on 21 October 1986)

B. Relevant international human rights instruments signed, but not yet ratified, by the Government of the Sudan

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (signed by the Sudan on 4 June 1986)
- United Nations Convention against Transnational Organized Crime (signed by the Sudan on 15 December 2000)
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction (signed by the Sudan on 4 December 1997)

Notes

[a] Accession.